

ASSEMBLY BILL

No. 1240

Introduced by Assembly Member Davis

February 27, 2009

An act to amend Sections 81332, 81373, and 81523 of, and to repeal Section 81371 of, the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 1240, as introduced, Davis. Community colleges: leasing of buildings: sale of district property.

(1) Existing law allows the governing board of a community college district to enter into an agreement with another entity whereby that entity will construct a building to be used and leased by the district. Existing law requires the agreement to vest title to the building in the district at, or before, the expiration of the lease.

Before entering into this type of agreement, existing law requires that the district have a site available upon which the building may be constructed, that the district has complied with provisions of existing law relating to the selection and approval of the site, and has prepared and adopted plans for the building to be constructed on the site. Existing law provides that a district has a site available for the construction of a building if it either owns the site or has an option which allows the district to purchase the site.

This bill would delete provisions providing that a site is available for construction of a building if the district has an option on the property.

(2) Existing law allows the district to lease temporary-use buildings. Existing law provides that any lease of a temporary-use building that is for more than a total of three years, or is under a lease-purchase contract, is subject to compliance with existing law providing for the

construction of school buildings under the supervision of the Department of General Services pursuant to specified standards.

This bill would extend this exception from a total of 3 years to 5 years, and would delete the provision regarding lease-purchase contracts. This bill would allow the district to enter into a lease for up to a total of 5 years without being subject to compliance with the above provisions of existing law regarding building standards.

(3) Existing law allows the governing board of a community college district to sell or lease any real property belonging to the district. Existing law requires the district to call for oral bids before accepting any written proposals to sell or lease district property. Existing law requires the board to accept an oral bid if it exceeds the highest written proposal by 5%.

This bill would repeal the provisions requiring the district to call for oral bids.

(4) Existing law provides that if the property is sold on a higher oral bid, $\frac{1}{2}$ of the commission is to be paid to the broker who submitted the highest written proposal, and $\frac{1}{2}$ of the commission is to be paid to the to the broker who procured the actual purchaser.

This bill would delete provisions requiring the district to split the commission between the broker procuring the highest written proposal and the broker procuring the actual purchaser in the event of a sale on a higher oral bid. This bill would require the full commission to be paid to the broker procuring the purchaser.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 81332 of the Education Code is amended
2 to read:
3 81332. Before the governing board of a community college
4 district enters into a lease or agreement pursuant to this article, it
5 shall have available a site upon which a building to be used by the
6 district may be constructed and shall have complied with the
7 provisions of law relating to the selection and approval of sites,
8 and it shall have prepared and shall have adopted plans and
9 specifications for such building which have been approved pursuant
10 to Article 7 (commencing with Section 81130) of Chapter 1 of
11 Part 49. A district has a site available for the purposes of this

1 section if it owns a site or if it has an option on a site which allows
2 the community college district or the designee of the district to
3 purchase the site. Any community college district may acquire and
4 pay for an option containing such a provision.

5 SEC. 2. Section 81371 of the Education Code is repealed.

6 ~~81371. Before accepting any written proposal, the board shall~~
7 ~~call for oral bids. If, upon the call for oral bidding, any responsible~~
8 ~~person offers to purchase the property or to lease the property, as~~
9 ~~the case may be, upon the terms and conditions specified in the~~
10 ~~resolution, for a price or rental exceeding by at least 5 percent, the~~
11 ~~highest written proposal, after deducting the commission, if any,~~
12 ~~to be paid a licensed real estate broker in connection therewith,~~
13 ~~then the oral bid which is the highest after deducting any~~
14 ~~commission to be paid a licensed real estate broker, in connection~~
15 ~~therewith, which is made by a responsible person, shall be finally~~
16 ~~accepted. Final acceptance shall not be made, however, until the~~
17 ~~oral bid is reduced to writing and signed by the offeror.~~

18 SEC. 3. Section 81373 of the Education Code is amended to
19 read:

20 ~~81373. In the event of a sale on a higher oral bid to a purchaser~~
21 ~~procured by a licensed real estate broker, other than the broker~~
22 ~~who submitted the highest written proposal, and who is qualified~~
23 ~~as provided in Section 81367, the board shall allow a commission~~
24 ~~on the full amount for which the sale is confirmed. One-half of~~
25 ~~the commission on the amount of the highest written proposal shall~~
26 ~~be paid to the broker who submitted it, and the balance of the~~
27 ~~commission on the purchase price to the broker who procured the~~
28 ~~purchaser to whom the sale was confirmed.~~

29 SEC. 4. Section 81523 of the Education Code is amended to
30 read:

31 81523. (a) The governing board of a community college district
32 may lease temporary-use buildings for a term extending to the
33 expected duration of use by the district.

34 (b) Any lease agreement or contract entered into pursuant to
35 this section shall be initiated by resolution authorizing such action
36 and prescribing the terms thereof adopted by vote of a majority of
37 the members of the governing board.

38 (c) A governing board of a community college district shall not
39 enter into a lease pursuant to subdivision (a), unless the resolution
40 adopted pursuant to subdivision (b) has been published in a

1 newspaper published in the district and having a general circulation
2 there; or if there is no such newspaper, then in a newspaper having
3 a general circulation in the district; or if there is no such newspaper,
4 then in a newspaper having a general circulation in a county in
5 which the district or any part thereof is situated. Notice shall be
6 published no less than once a week for three weeks prior to the
7 execution of the lease by the board.

8 (d) Any temporary-use building in which students are expected
9 to enter and which is leased under one, or successive leases, for a
10 total time in excess of *three five* years, ~~or under a lease-purchase~~
11 ~~contract, shall be~~ *is* subject to ~~the provisions of~~ Article 7
12 (commencing with Section 81130) and Article 8 (commencing
13 with Section 81160) of Chapter 1 of this part.